

Hyde	Neumann	Shaw
Inglis	Northup	Shays
Istook	Norwood	Shimkus
Jenkins	Nussle	Shuster
Johnson, Sam	Oxley	Smith (MI)
Jones	Packard	Smith (NJ)
Kasich	Pappas	Smith (OR)
Kelly	Parker	Smith (TX)
Kim	Paul	Smith, Linda
King (NY)	Paxon	Snowbarger
Kingston	Pease	Solomon
Klug	Peterson (PA)	Souder
Knollenberg	Petri	Spence
Kolbe	Pickering	Stearns
LaHood	Pickett	Stump
Latham	Pitts	Sununu
LaTourette	Pombo	Talent
Lazio	Porter	Taylor (NC)
Lewis (KY)	Portman	Thomas
Linder	Quinn	Thornberry
Lipinski	Radanovich	Thune
Livingston	Regula	Tiahrt
LoBiondo	Riggs	Upton
Lucas	Riley	Walsh
Manzullo	Rogan	Wamp
McCollum	Rogers	Watkins
McCrery	Rohrabacher	Watts (OK)
McDade	Roukema	Weldon (FL)
McHugh	Royce	Weldon (PA)
McInnis	Ryun	Weller
McIntosh	Salmon	White
McKeon	Sanford	Whitfield
Metcalf	Saxton	Wicker
Mica	Schaefer, Dan	Wilson
Miller (FL)	Schaffer, Bob	Wolf
Moran (KS)	Sensenbrenner	Young (FL)
Myrick	Sessions	
Nethercutt	Shadegg	

NOT VOTING—21

Archer	Gonzalez	Pryce (OH)
Barcia	Hunter	Scarborough
Berry	Johnson, E. B.	Schumer
Burr	Kennelly	Tauzin
Ehrlich	Largent	Towns
Furse	McGovern	Wise
Gephardt	Poshard	Young (AK)

So the amendment was not agreed to.

86.15 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the foregoing amendment submitted by Mr. RIGGS:

It was decided in the	Yeas	230
affirmative	Nays	184

86.16 [Roll No. 423]
AYES—230

Aderholt	Chenoweth	Galleghy
Archer	Christensen	Ganske
Armey	Coble	Gekas
Bachus	Coburn	Gibbons
Baesler	Collins	Gilchrest
Baker	Combest	Gillmor
Ballenger	Cook	Gilman
Barr	Cooksey	Goode
Barrett (NE)	Cox	Goodlatte
Bartlett	Cramer	Goodling
Barton	Crane	Goss
Bass	Crapo	Graham
Bateman	Cubin	Granger
Bereuter	Cunningham	Greenwood
Bilbray	Danner	Gutknecht
Bilirakis	Davis (VA)	Hall (TX)
Bliley	Deal	Hansen
Blunt	DeLay	Hastert
Boehlert	Dickey	Hastings (WA)
Boehner	Doolittle	Hayworth
Bonilla	Dreier	Hefley
Bono	Duncan	Herger
Boyd	Dunn	Hill
Brady (TX)	Ehlers	Hilleary
Bryant	Emerson	Hobson
Bunning	English	Hoekstra
Burton	Ensign	Horn
Buyer	Everett	Hostettler
Callahan	Ewing	Houghton
Calvert	Fawell	Hulshof
Camp	Foley	Hunter
Campbell	Forbes	Hutchinson
Canady	Fossella	Hyde
Cannon	Fowler	Inglis
Castle	Fox	Istook
Chabot	Franks (NJ)	Jenkins
Chambliss	Frelinghuysen	John

Johnson (CT)	Norwood	Shimkus
Johnson, Sam	Nussle	Shuster
Jones	Packard	Sisisky
Kasich	Pappas	Skeen
Kelly	Parker	Smith (MI)
Kim	Paul	Smith (NJ)
King (NY)	Paxon	Smith (OR)
Kingston	Pease	Smith (TX)
Klug	Peterson (MN)	Smith, Linda
Knollenberg	Peterson (PA)	Snowbarger
Kolbe	Petri	Solomon
LaHood	Pickering	Souder
Latham	Pickett	Spence
LaTourette	Pitts	Stearns
Lazio	Pombo	Stenholm
Leach	Porter	Stump
Lewis (CA)	Portman	Sununu
Lewis (KY)	Quinn	Talent
Linder	Radanovich	Taylor (MS)
Lipinski	Ramstad	Taylor (NC)
Livingston	Redmond	Thomas
LoBiondo	Regula	Thornberry
Lucas	Riggs	Thune
Manzullo	Riley	Tiahrt
McCollum	Rogan	Trafficant
McCrery	Rogers	Upton
McDade	Rohrabacher	Walsh
McHugh	Roukema	Wamp
McInnis	Royce	Watkins
McIntosh	Ryun	Watts (OK)
McIntyre	Salmon	Weldon (FL)
McKeon	Sanford	Weldon (PA)
Metcalf	Saxton	Weller
Mica	Schaefer, Dan	White
Miller (FL)	Schaffer, Bob	Whitfield
Moran (KS)	Sensenbrenner	Wicker
Myrick	Sessions	Wilson
Nethercutt	Shadegg	Wolf
Neumann	Shaw	Young (FL)
Northup	Shays	

NOES—184

Abercrombie	Gordon	Minge
Ackerman	Green	Mink
Allen	Gutierrez	Moakley
Andrews	Hall (OH)	Mollohan
Baldacci	Hamilton	Moran (VA)
Barrett (WI)	Harman	Morella
Becerra	Hastings (FL)	Murtha
Bentsen	Hefner	Nadler
Berman	Hilliard	Neal
Bishop	Hinchey	Ney
Blagojevich	Hinojosa	Oberstar
Blumenauer	Holden	Obey
Bonior	Hooley	Olver
Borski	Hoyer	Ortiz
Boswell	Jackson (IL)	Owens
Boucher	Jackson-Lee	Oxley
Brady (PA)	(TX)	Pallone
Brown (CA)	Jefferson	Pascarell
Brown (FL)	Johnson (WI)	Pastor
Brown (OH)	Kanjorski	Payne
Capps	Kaptur	Pelosi
Cardin	Kennedy (MA)	Pomeroy
Carson	Kennedy (RI)	Price (NC)
Clay	Kildee	Rahall
Clayton	Kilpatrick	Rangel
Clement	Kind (WI)	Reyes
Clyburn	Klecza	Rivers
Condit	Klink	Rodriguez
Conyers	Kucinich	Roemer
Costello	LaFalce	Ros-Lehtinen
Coyne	Lampson	Rothman
Cummings	Lantos	Roybal-Allard
Davis (FL)	Lee	Rush
Davis (IL)	Levin	Sabo
DeFazio	Lewis (GA)	Sanchez
DeGette	Lofgren	Sanders
Delahunt	Lowey	Sandlin
DeLauro	Luther	Sawyer
Deutsch	Maloney (CT)	Scott
Diaz-Balart	Maloney (NY)	Serrano
Dicks	Manton	Sherman
Dingell	Markey	Skaggs
Dixon	Martinez	Skelton
Doggett	Mascara	Slaughter
Dooley	Matsui	Smith, Adam
Doyle	McCarthy (MO)	Snyder
Edwards	McCarthy (NY)	Spratt
Engel	McDermott	Stabenow
Eshoo	McHale	Stark
Evans	McKinney	Stokes
Farr	McNulty	Strickland
Fattah	Meehan	Stupak
Fazio	Meek (FL)	Tanner
Filner	Meeks (NY)	Tauscher
Ford	Menendez	Thompson
Frank (MA)	Millender	Thurman
Frost	McDonald	Tierney
Gejdenson	Miller (CA)	Torres

Turner	Waters	Weygand
Velazquez	Watt (NC)	Woolsey
Vento	Waxman	Wynn
Visclosky	Wexler	Yates

NOT VOTING—20

Barcia	Gonzalez	Scarborough
Berry	Johnson, E. B.	Schumer
Burr	Kennelly	Tauzin
Ehrlich	Largent	Towns
Etheridge	McGovern	Wise
Furse	Poshard	Young (AK)
Gephardt	Pryce (OH)	

So the amendment was agreed to.
The SPEAKER pro tempore, Mr. GUTKNECHT, assumed the Chair.

When Mr. LAHOOD, Chairman, pursuant to House Resolution 516, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. ENGLISH LANGUAGE EDUCATION.

Part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended to read as follows:

"PART A—ENGLISH LANGUAGE EDUCATION

"SEC. 7101. SHORT TITLE.

"This part may be cited as the 'English Language Fluency Act'.

"SEC. 7102. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds as follows:

"(1) English is the common language of the United States and every citizen and other person residing in the United States should have a command of the English language in order to develop to their full potential.

"(2) States and local school districts need assistance in developing the capacity to provide programs of instruction that offer and provide an equal educational opportunity to immigrant children and youth and children and youth who need special assistance because English is not their dominant language.

"(b) PURPOSES.—The purposes of this part are—

"(1) to help ensure that children and youth who are English language learners master English and develop high levels of academic attainment in English; and

"(2) to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to help immigrant children and youth with their transition into society, including mastery of the English language.

"SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO PARTICIPATE.

"(a) IN GENERAL.—A parent or the parents of a child participating in an English language instruction program for English language learners assisted under this Act shall be informed of—

"(1) the reasons for the identification of the child as being in need of English language instruction;

"(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement; and

"(3) how the English language instruction program will specifically help the child acquire English and meet age-appropriate standards for grade promotion and graduation.

"(b) PARENTAL CONSENT.—

"(1) IN GENERAL.—A parent or the parents of a child who is an English language learner and is identified for participation in an

English language instruction program assisted under this Act—

“(A) shall sign a form consenting to their child’s placement in such a program prior to such time as their child is enrolled in the program;

“(B) shall select among methods of instruction, if more than one method is offered in the program; and

“(C) shall have their child removed from the program upon their request.

“(2) EFFECT OF LAU DECISION.—A local educational agency shall not be relieved of any of its obligations under the holding in the Supreme Court case of *Lau v. Nichols*, 414 U.S. 563 (1974), because any parent chooses not to enroll their child in an English language instruction program using their native language in instruction.

“(c) RECEIPT OF INFORMATION.—A parent or the parents of a child identified for participation in an English language instruction program for English language learners assisted under this Act shall receive, in a manner and form understandable to the parent or parents, the information required by this section. At a minimum, the parent or parents shall receive—

“(1) timely information about English language instruction programs for English language learners assisted under this Act; and

“(2) if a parent of a participating child so desires, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

“(d) SPECIAL RULE.—An individual may not be admitted to, or excluded from, any federally assisted education program solely on the basis of a surname, language-minority status, or national origin.

“Subpart 1—Grants for English Language Acquisition

“CHAPTER 1—GENERAL PROVISIONS

“SEC. 7111. FUNDING.

“(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

“(b) RESERVATION FOR ENTITIES SERVING NATIVE AMERICANS AND ALASKA NATIVES.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than .5 percent to provide Federal financial assistance under this subpart to entities that are considered to be a local educational agency under section 7112(a).

“SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

“(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this subpart for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, the following shall be considered to be a local educational agency:

“(1) An Indian tribe.

“(2) A tribally sanctioned educational authority.

“(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

“(4) An elementary or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

“(5) An elementary or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

“(6) An elementary or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary or secondary

school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

“(b) SUBMISSION OF APPLICATIONS FOR ASSISTANCE.—Notwithstanding any other provision of this subpart, an entity that is considered to be a local educational agency under subsection (a), and that desires to submit an application for Federal financial assistance under this subpart, shall submit the application to the Secretary. In all other respects, such an entity shall be eligible for a grant under this subpart on the same basis as any other local educational agency.

“CHAPTER 2—GRANTS FOR ENGLISH LANGUAGE ACQUISITION

“SEC. 7121. FORMULA GRANTS TO STATES.

“(a) IN GENERAL.—In the case of each State that in accordance with section 7122 submits to the Secretary an application for a fiscal year, the Secretary shall make a grant for the year to the State for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State under section 7124.

“(b) PURPOSES OF GRANTS.—

“(1) REQUIRED EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the State involved agrees that the State will expend at least 90 percent of the amount of the funds provided under the grant for the purpose of making subgrants to eligible entities to provide assistance to children and youth who are English language learners and immigrant children and youth in accordance with section 7123.

“(2) AUTHORIZED EXPENDITURES.—Subject to paragraph (3), a State that receives a grant under subsection (a) may expend not more than 10 percent of the amount of the funds provided under the grant for one or more of the following purposes:

“(A) Professional development and activities that assist personnel in meeting State and local certification requirements for English language instruction.

“(B) Planning, administration, and inter-agency coordination related to the subgrants referred to in paragraph (1).

“(C) Providing technical assistance and other forms of assistance to local educational agencies that—

“(i) educate children and youth who are English language learners and immigrant children and youth; and

“(ii) are not receiving a subgrant from a State under this chapter.

“(D) Providing bonuses to subgrantees whose performance has been exceptional in terms of the speed with which children and youth enrolled in the subgrantee’s programs and activities attain English language proficiency.

“(3) LIMITATION ON ADMINISTRATIVE COSTS.—In carrying out paragraph (2), a State that receives a grant under subsection (a) may expend not more than 2 percent of the amount of the funds provided under the grant for the purposes described in paragraph (2)(B).

“SEC. 7122. APPLICATIONS BY STATES.

“For purposes of section 7121, an application submitted by a State for a grant under such section for a fiscal year is in accordance with this section if the application—

“(1) describes the process that the State will use in making subgrants to eligible entities under this chapter;

“(2) contains an agreement that the State annually will submit to the Secretary a summary report, describing the State’s use of the funds provided under the grant;

“(3) contains an agreement that the State will give special consideration to applications for a subgrant under section 7123 from eligible entities that describe a program that—

“(A)(i) enrolls a large percentage or large number of children and youth who are English language learners and immigrant children and youth; and

“(ii) addresses a need brought about through a significant increase, as compared to the previous 2 years, in the percentage or number of children and youth who are English language learners in a school or school district, including schools and school districts in areas with low concentrations of such children and youth; or

“(B) on the day preceding the date of the enactment of this section, was receiving funding under a grant—

“(i) awarded by the Secretary under subpart 1 or 3 of part A of the Bilingual Education Act (as such Act was in effect on such day); and

“(ii) that was not due to expire before a period of one year or more had elapsed;

“(4) contains an agreement that, in carrying out this chapter, the State will address the needs of school systems of all sizes and in all geographic areas, including rural and urban schools;

“(5) contains an agreement that the State will coordinate its programs and activities under this chapter with its other programs and activities under this Act and other Acts, as appropriate; and

“(6) contains an agreement that the State will monitor the progress of students enrolled in programs and activities receiving assistance under this chapter in attaining English proficiency and withdraw funding from such programs and activities in cases where—

“(A) students enrolling when they are in kindergarten are not mastering the English language by the end of the first grade; and

“(B) other students are not mastering the English language after 2 academic years of enrollment.

“SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.

“(a) PURPOSES OF SUBGRANTS.—A State may make a subgrant to an eligible entity from funds received by the State under this chapter only if the entity agrees to expend the funds for one of the following purposes:

“(1) Developing and implementing new English language instructional programs for children and youth who are English language learners, including programs of early childhood education and kindergarten through 12th grade education.

“(2) Carrying out locally designed projects to expand or enhance existing English language instruction programs for children and youth who are English language learners.

“(3) Assisting a local educational agency in providing enhanced instructional opportunities for immigrant children and youth.

“(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), a State may make a subgrant to an eligible entity from funds received by the State under this chapter in order that the eligible entity may achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities to improve the understanding, and use, of the English language, based on a child’s learning skills:

“(A) Developing and implementing comprehensive preschool or elementary or secondary school English language instructional programs that are coordinated with other relevant programs and services.

“(B) Providing training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of children and youth who are English language learners, immigrant children and youth, or both.

“(C) Improving the program for children and youth who are English language learners, immigrant children and youth, or both.

"(D) Providing for the acquisition or development of education technology or instructional materials, access to and participation in electronic networks for materials, providing training and communications, and incorporation of such resources in curricula and programs, such as those funded under this subpart.

"(E) Developing tutoring programs for English language learners that provide early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among English language learners, and to prepare students for transition as soon as possible into classrooms where instruction is not tailored for English language learners or immigrant children and youth.

"(F) Providing family literacy services to English language learners and immigrant children and youth and their families to improve their English language skills and assist parents in helping their children to improve their academic performance.

"(G) Such other activities, related to the purpose of the subgrant, as the State may approve.

"(2) MOVING CHILDREN OUT OF SPECIALIZED CLASSROOMS.—Any program or activity undertaken by an eligible entity using a subgrant from a State under this chapter shall be designed to assist students enrolled in the program or activity to move into a classroom where instruction is not tailored for English language learners or immigrant children and youth—

"(A) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(B) by the end of their second academic year of enrollment, in the case of other students.

"(3) MAXIMUM ENROLLMENT PERIOD.—An eligible entity may not use funds received from a State under this chapter to provide instruction or assistance to any individual who has been enrolled for a period exceeding 3 years in a program or activity undertaken by the eligible entity under this section.

"(c) SELECTION OF METHOD OF INSTRUCTION.—To receive a subgrant from a State under this chapter, an eligible entity shall select one or more methods or forms of English language instruction to be used in the programs and activities undertaken by the entity to assist English language learners and immigrant children and youth to achieve English fluency. Such selection shall be consistent with the State's law, including State constitutional law.

"(d) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State under this section shall be determined by the State in its discretion.

"(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—To receive a subgrant from a State under this chapter, an eligible entity shall submit an application to the State at such time, in such form, and containing such information as the State may require.

"(2) REQUIRED DOCUMENTATION.—The application shall describe the programs and activities proposed to be developed, implemented, and administered under the subgrant and shall provide an assurance that the applicant will only employ teachers and other personnel for the proposed programs and activities who are proficient in English, including written and oral communication skills.

"(3) REQUIREMENTS FOR APPROVAL.—A State may approve an application submitted by an eligible entity for a subgrant under this chapter only if the State determines that—

"(A) the eligible entity will use qualified personnel who have appropriate training and professional credentials in teaching English

to children and youth who are English language learners and immigrant children and youth;

"(B) in designing the programs and activities proposed in the application, the needs of children enrolled in private elementary and secondary schools have been taken into account through consultation with appropriate private school officials;

"(C) the eligible entity has provided for the participation of children enrolled in private elementary and secondary schools in the programs and activities proposed in the application on a basis comparable to that provided for children enrolled in public school;

"(D) the eligible entity has based its proposal on sound research and theory;

"(E) the eligible entity has described in the application how students enrolled in the programs and activities proposed in the application will be taught English—

"(i) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(ii) by the end of their second academic year of enrollment, in the case of other students; and

"(F) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of English language learners.

"(4) QUALITY.—In determining which applications to select for approval, a State shall consider the quality of each application.

"(f) EVALUATION.—

"(1) IN GENERAL.—Each eligible entity that receives a subgrant from a State under this chapter shall provide the State, at the conclusion of every second fiscal year during which the grant is received, with an evaluation, in a form prescribed by the State, of—

"(A) the programs and activities conducted by the entity with funds received under this chapter during the two immediately preceding fiscal years;

"(B) the progress made by students in learning the English language; and

"(C) the number and percentage of students in the programs and activities mastering the English language by the end of each school year.

"(2) USE OF EVALUATION.—An evaluation provided by an eligible entity under paragraph (1) shall be used by the entity and the State—

"(A) for improvement of programs and activities;

"(B) to determine the effectiveness of programs and activities in assisting children and youth who are English language learners to master the English language; and

"(C) in determining whether or not to continue funding for specific programs or projects.

"(3) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under paragraph (1) shall include—

"(A) an evaluation of whether students enrolling in a program or activity conducted by the entity with funds received under this chapter—

"(i) are mastering the English language—

"(I) by the end of the first grade, in the case of students enrolling when they are in kindergarten; or

"(II) by the end of their second academic year of enrollment, in the case of other students; and

"(ii) have achieved a working knowledge of the English language that is sufficient to permit them to perform, in English, regular classroom work; and

"(B) such other information as the State may require.

"(4) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under paragraph (1), a State shall approve evaluation measures for use under paragraph (3) that are designed to assess—

"(A) oral language proficiency in kindergarten;

"(B) oral language proficiency, including speaking and listening skills, in first grade; and

"(C) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades two and higher.

"SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), from the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sum as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the State bears to the total number of such children and youth residing in all States (excluding the Commonwealth of Puerto Rico and the outlying areas) that, in accordance with section 7122, submit to the Secretary an application for the year.

"(b) PUERTO RICO.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the Commonwealth of Puerto Rico an amount equal to 1.5 percent of the sums appropriated under section 7111(a).

"(c) OUTLYING AREAS.—

"(1) TOTAL AVAILABLE FOR ALLOTMENT.—From the sum available for the purpose of making grants to States under this chapter for any fiscal year, the Secretary shall allot to the outlying areas, in accordance with paragraph (2), a total amount equal to .5 percent of the sums appropriated under section 7111(a).

"(2) DETERMINATION OF INDIVIDUAL AREA AMOUNTS.—From the total amount determined under paragraph (1), the Secretary shall allot to each outlying area an amount which bears the same ratio to such amount as the total number of children and youth who are English language learners and immigrant children and youth and who reside in the outlying area bears to the total number of such children and youth residing in all outlying areas that, in accordance with section 7122, submit to the Secretary an application for the year.

"(d) MINIMUM ALLOTMENT.—

"(1) IN GENERAL.—Notwithstanding subsections (a) through (c), the Secretary shall not allot to any State, for fiscal years 1999 through 2003, an amount that is less than 100 percent of the baseline amount for the State.

"(2) BASELINE AMOUNT DEFINED.—For purposes of this subsection, the term 'baseline amount', when used with respect to a State, means the total amount received under parts A and C of this title for fiscal year 1998 by the State, the State educational agency, and all local educational agencies of the State.

"(3) RATABLY REDUCTION.—If the amount available for allotment under this section for any fiscal year is insufficient to permit the Secretary to comply with paragraph (1), the Secretary shall ratably reduce the allotments to all States for such year.

"(e) USE OF STATE DATA FOR DETERMINATIONS.—For purposes of subsections (a) and (c), any determination of the number of children and youth who are English language learners and reside in a State shall be made using the most recent English language learner school enrollment data available to, and reported to the Secretary by, the State. For purposes of such subsections, any determination of the number of immigrant children and youth who reside in a State shall be made using the most recent data available to, and reported to the Secretary by, the State.

"(f) NO REDUCTION PERMITTED BASED ON TEACHING METHOD.—The Secretary may not reduce a State's allotment based on the State's selection of the immersion method of instruction as its preferred method of teaching the English language to children and youth who are English language learners or immigrant children and youth.

"SEC. 7125. CONSTRUCTION.

"Nothing in this chapter shall be construed as requiring a State or a local educational agency to establish, continue, or eliminate a program of native language instruction.

"Subpart 2—Research and Dissemination

"SEC. 7141. AUTHORITY.

"The Secretary may conduct, through the Office of Educational Research and Improvement, research for the purpose of improving English language instruction for children and youth who are English language learners and immigrant children and youth. Activities under this section shall be limited to research to identify successful models for teaching children English and distribution of research results to States for dissemination to schools with populations of students who are English language learners. Research conducted under this section may not focus solely on any one method of instruction."

SEC. 2. REPEAL OF EMERGENCY IMMIGRANT EDUCATION PROGRAM.

Part C of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7541 et seq.) is repealed.

SEC. 3. ADMINISTRATION.

Part D of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7571 et seq.) is redesignated as part C of such title and amended to read as follows:

"PART C—ADMINISTRATION

"SEC. 7301. REPORTING REQUIREMENTS.

"(a) STATES.—Based upon the evaluations provided to a State under section 7123(f), each State receiving a grant under this title annually shall report to the Secretary on programs and activities undertaken by the State under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

"(b) SECRETARY.—Every other year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on programs and activities undertaken by States under this title and the effectiveness of such programs and activities in improving the education provided to children and youth who are English language learners and immigrant children and youth.

"SEC. 7302. COMMINGLING OF FUNDS.

"(a) ESEA FUNDS.—A person who receives Federal funds under subpart 1 of part A may commingle such funds with other funds the person receives under this Act so long as the person satisfies the requirements of this Act.

"(b) STATE AND LOCAL FUNDS.—Except as provided in section 14503, a person who receives Federal funds under subpart 1 of part A may commingle such funds with funds the person receives under State or local law for the purpose of teaching English to children and youth who are English language learners and immigrant children and youth, to the extent permitted under such State or local law, so long as the person satisfies the requirements of this title and such law."

SEC. 4. GENERAL PROVISIONS.

Part E of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601 et seq.) is redesignated as part D of such title and amended to read as follows:

"PART D—GENERAL PROVISIONS

"SEC. 7401. DEFINITIONS.

"For purposes of this title:

"(1) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) one or more local educational agencies;

"(B) one or more local educational agencies in collaboration with—

"(i) an institution of higher education;

"(ii) a community-based organization;

"(iii) a local educational agency; or

"(iv) a State;

"(C) a community-based organization or an institution of higher education which has an application approved by a local educational agency to enhance an early childhood education program or a family education program; or

"(D) a State educational agency, in the case of a State educational agency that also serves as a local educational agency.

"(4) ENGLISH LANGUAGE LEARNER.—The term 'English language learner', when used with reference to an individual, means an individual—

"(A) aged 3 through 21;

"(B) who—

"(i) was not born in the United States; or

"(ii) comes from an environment where a language other than English is dominant and who normally uses a language other than English; and

"(C) who has sufficient difficulty speaking, reading, writing, or understanding the English language that the difficulty may deny the individual the opportunity—

"(i) to learn successfully in a classroom where the language of instruction is English; or

"(ii) to participate fully in society.

"(5) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family (such as eliminating or reducing welfare dependency) and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Equipping parents to partner with their children in learning.

"(C) Parent literacy training, including training that contributes to economic self-sufficiency.

"(D) Appropriate instruction for children of parents receiving parent literacy services.

"(6) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not attended school in any State for more than three full academic years.

"(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is

recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(8) NATIVE AMERICAN; NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' have the meanings given such terms in section 103 of the Native American Languages Act (25 U.S.C. 2902).

"(9) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization—

"(A) a majority of whose governing board, and a majority of whose employees, are fluent speakers of the traditional Native American languages used in the organization's educational programs; and

"(B) that has not less than five years of successful experience in providing educational services in traditional Native American languages.

"(10) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual who is an English language learner, means the language normally used by such individual.

"(11) OUTLYING AREA.—The term 'outlying area' means any of the following:

"(A) The Virgin Islands of the United States.

"(B) Guam.

"(C) American Samoa.

"(D) The Commonwealth of the Northern Mariana Islands.

"(12) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any outlying area.

"(13) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate a school described in section 7112(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

"(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A for individuals served by a school described in section 7112(a).

"SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.

"The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure compliance with the specific requirements of this title.

"SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.

"Nothing in this title shall be construed to negate or supersede the legal authority, under State law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

"SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.

"Notwithstanding section 7403, any compliance agreement entered into between a State, locality, or local educational agency and the Department of Health, Education, and Welfare or the Department of Education, that requires such State, locality, or local educational agency to develop, implement, provide, or maintain any form of bilingual education, is void.

"SEC. 7405. RULEMAKING ON OFFICE OF CIVIL RIGHTS GUIDELINES AND COMPLIANCE STANDARDS.

"(a) IN GENERAL.—In accordance with subchapter II of chapter 5 of part I of title 5, United States Code, the Secretary—

"(1) shall publish in the Federal Register a notice of proposed rulemaking with respect to the enforcement guidelines and compliance standards of the Office of Civil Rights of the Department of Education that apply to a program or activity to provide English language instruction to English language learners that is undertaken by a State, locality, or local educational agency;

"(2) shall undertake a rulemaking pursuant to such notice; and

"(3) shall promulgate a final rule pursuant to such rulemaking on the record after opportunity for an agency hearing.

"(b) EFFECT OF RULEMAKING ON COMPLIANCE AGREEMENTS.—The Secretary may not enter into any compliance agreement after the date of the enactment of this section pursuant to a guideline or standard described in subsection (a)(1) with an entity described in such subsection until the Secretary has promulgated the final rule described in subsection (a)(3).

"SEC. 7406. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to limit the preservation or use of Native American languages as defined in the Native American Languages Act or Alaska Native languages."

SEC. 5. CONFORMING AMENDMENTS.

(a) TITLE HEADING.—The title heading of title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VII—ENGLISH LANGUAGE FLUENCY AND FOREIGN LANGUAGE ACQUISITION PROGRAMS".

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—The Elementary and Secondary Education Act of 1965 is amended—

(1) in section 2209(b)(1)(C)(iii) (20 U.S.C. 6649(b)(1)(C)(iii)), by striking "Bilingual Education Programs under part A of title VII." and inserting "English language education programs under part A of title VII."; and

(2) in section 14307(b)(1)(E) (20 U.S.C. 8857(b)(1)(E)), by striking "Subpart 1 of part A of title VII (bilingual education)." and inserting "Chapter 2 of subpart 1 of part A of title VII (English language education)."

(c) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—

(1) IN GENERAL.—The Department of Education Organization Act is amended by striking "Office of Bilingual Education and Minority Languages Affairs" each place such term appears in the text and inserting "Office of English Language Acquisition".

(2) CLERICAL AMENDMENTS.—

(A) SECTION 209.—The section heading for section 209 of the Department of Education Organization Act is amended to read as follows:

"OFFICE OF ENGLISH LANGUAGE ACQUISITION".

(B) SECTION 216.—The section heading for section 216 of the Department of Education Organization Act is amended to read as follows:

"SEC. 216. OFFICE OF ENGLISH LANGUAGE ACQUISITION".

(C) TABLE OF CONTENTS.—

(i) SECTION 209.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 209 to read as follows:

"Sec. 209. Office of English Language Acquisition."

(ii) SECTION 216.—The table of contents of the Department of Education Organization Act is amended by amending the item relating to section 216 to read as follows:

"Sec. 216. Office of English Language Acquisition."

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act, or October 1, 1998, whichever occurs later.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, viva voce,

Will the House pass said bill?

The SPEAKER pro tempore, Mr. GUTKNECHT, announced that the yeas had it.

Mrs. MINK demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 221
affirmative { Nays 189

186.17

[Roll No. 424]

AYES—221

Aderholt	Fossella	McCollum
Archer	Fowler	McDade
Armey	Fox	McHugh
Bachus	Franks (NJ)	McInnis
Baessler	Frelinghuysen	McIntosh
Baker	Gallegly	McIntyre
Ballenger	Ganske	McKeon
Barr	Gekas	Metcalfe
Barrett (NE)	Gibbons	Mica
Bartlett	Gilchrest	Miller (FL)
Barton	Gillmor	Moran (KS)
Bass	Goode	Myrick
Bateman	Goodlatte	Nethercutt
Bereuter	Goodling	Neumann
Bilbray	Gordon	Northup
Bilirakis	Goss	Norwood
Bliley	Graham	Oxley
Blunt	Granger	Packard
Boehlert	Greenwood	Pappas
Boehner	Gutknecht	Parker
Bonilla	Hall (TX)	Paxon
Bono	Hansen	Pease
Brady (TX)	Hastert	Peterson (MN)
Bryant	Hastings (WA)	Peterson (PA)
Bunning	Hayworth	Petri
Burton	Hefley	Pickering
Buyer	Herger	Pickett
Callahan	Hill	Pitts
Calvert	Hilleary	Pombo
Camp	Hobson	Porter
Campbell	Hoekstra	Portman
Canady	Horn	Quinn
Cannon	Hostettler	Radanovich
Castle	Houghton	Regula
Chabot	Hulshof	Riggs
Chambliss	Hunter	Riley
Chenoweth	Hutchinson	Rogan
Christensen	Hyde	Rogers
Coble	Inglis	Rohrabacher
Coburn	Istook	Roukema
Collins	Jenkins	Royce
Combest	John	Ryun
Cook	Johnson, Sam	Salmon
Cooksey	Jones	Sanford
Cox	Kasich	Saxton
Cramer	Kelly	Schaefer, Dan
Crane	Kim	Schaffer, Bob
Cubin	King (NY)	Sensenbrenner
Cunningham	Kingston	Sessions
Danner	Klug	Shadegg
Deal	Knollenberg	Shaw
DeLay	Kolbe	Shays
Dickey	LaHood	Sherman
Doolittle	Largent	Shimkus
Dreier	Latham	Shuster
Duncan	LaTourette	Skeen
Dunn	Lazio	Smith (MI)
Ehlers	Leach	Smith (NJ)
Emerson	Lewis (CA)	Smith (OR)
English	Lewis (KY)	Smith, Linda
Ensign	Linder	Snowbarger
Everett	Lipinski	Solomon
Ewing	Livingston	Souder
Fawell	LoBiondo	Spence
Foley	Lucas	Stearns
Forbes	Manzullo	Stump

Sununu
Talent
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt

Trafigant
Harman
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)

Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOES—189

Abercrombie	Hamilton	Oberstar
Ackerman	Harman	Obey
Allen	Hastings (FL)	Olver
Andrews	Hefner	Ortiz
Baldacci	Hilliard	Owens
Barrett (WI)	Hinchey	Pallone
Becerra	Hinojosa	Pascarella
Bentsen	Holden	Pastor
Berman	Hooley	Paul
Bishop	Hoyer	Payne
Blagojevich	Jackson (IL)	Pelosi
Blumenauer	Jackson-Lee	Pomeroy
Bonior	(TX)	Price (NC)
Borski	Jefferson	Rahall
Boswell	Johnson (CT)	Ramstad
Boucher	Johnson (WI)	Rangel
Boyd	Kanjorski	Redmond
Brady (PA)	Kennedy (MA)	Reyes
Brown (CA)	Kennedy (RI)	Rivers
Brown (FL)	Kildee	Rodriguez
Brown (OH)	Kilpatrick	Roemer
Capps	Kind (WI)	Ros-Lehtinen
Cardin	Kleczka	Rothman
Carson	Klink	Roybal-Allard
Clay	Kucinich	Rush
Clayton	LaFalce	Sabo
Clement	Lampson	Sanchez
Clyburn	Lantos	Sanders
Condit	Lee	Sandlin
Conyers	Levin	Sawyer
Costello	Lewis (GA)	Scott
Coyne	Lofgren	Serrano
Crapo	Lowey	Sisisky
Cummings	Luther	Skaggs
Davis (FL)	Maloney (CT)	Skelton
Davis (IL)	Maloney (NY)	Slaughter
DeFazio	Manton	Smith, Adam
DeGette	Markey	Snyder
Delahunt	Martinez	Spratt
DeLauro	Mascara	Stabenow
Deutsch	Matsui	Stark
Diaz-Balart	McCarthy (MO)	Stenholm
Dicks	McCarthy (NY)	Stokes
Dingell	McDermott	Strickland
Dixon	McHale	Stupak
Doggett	McKinney	Tanner
Dooley	McNulty	Tauscher
Doyle	Meehan	Thompson
Edwards	Meek (FL)	Thurman
Engel	Meeks (NY)	Tierney
Eshoo	Menendez	Torres
Evans	Millender-McDonald	Turner
Farr	Miller (CA)	Velazquez
Fattah	Minge	Vento
Fazio	Mink	Visclosky
Filner	Moakley	Waters
Ford	Mollohan	Watt (NC)
Frank (MA)	Moran (VA)	Waxman
Frost	Morella	Wexler
Gejdenson	Murtha	Weygand
Gilman	Nadler	Woolsey
Green	Neal	Wynn
Gutierrez	Ney	Yates
Hall (OH)		

NOT VOTING—24

Barcia	Gonzalez	Pryce (OH)
Berry	Johnson, E.B.	Scarborough
Burr	Kaptur	Schumer
Davis (VA)	Kennelly	Smith (TX)
Ehrlich	McCrery	Tauzin
Etheridge	McGovern	Towns
Furse	Nussle	Wise
Gephardt	Poshard	Young (AK)

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

186.18 SUBPOENA

The SPEAKER pro tempore, Mr. GUTKNECHT, laid before the House the following communication from Mr. STRICKLAND: